IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

MFA.No. 1092 of 2001(B)

OP(MV).1024/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE
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PETITIONER/ APPELLANT:

N.KUNHALI KUTTY,
S/O. LATE CHACKON KUTTY,
NADOTH HOUSE P.O., NADAPURAM
VIA VADAGARA, CALICUT DIST.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS:
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1. **K.VIJAYENDRA KUMAR,**
   S/O. KUMARAN, "KRISHNANAD".
   CHERATHUKUZHI, MALAPPURAM DISTRICT.

2. **VENUGOPALAN,**
   S/O. VELAYUDHAN NAIR,
   KOTHAKULANGARA HOUSE,
   EDATHIL PADIVAYAL, BEYPORE AMSOM,
   NADUVATTAM.

3. **UNITED INDIA INSURANCE CO. LTD.,**
   BRANCH OFFICE, V.D.B. ROAD,
   R.S.PURAM, COIMBATORE.

BY ADV. SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE
SRI.P.MURALEEDHARAN - R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. Koshy & K.Hema, JJ.

M.F.A.No. 1092 of 2001

Dated this the 7th day of December, 2007

Judgment

Koshy,J.

Appellant/Claimant sustained injuries in a motor accident on 10.10.1992 when a tourist taxi collided with a bus. He claimed a compensation of Rs.40,000/- contending that the accident occurred due to the negligence of the second respondent driver of the bus which was owned by the first respondent and insured by the third respondent insurance company. The tribunal though accepted that the accident occurred due to the negligence of the driver of the bus insured by the third respondent insurance company, only Rs.3,050/- was allowed by the tribunal with cost and interest. Only quantum of compensation is disputed.

2. Appellant was working as a school teacher at the time of accident. He produced Ext.A6 disability certificate assessing permanent disability to the appellant due to the accident. But, it is to be noted that there was no fracture on the appellant. There was only abrasions and lacerations as per the wound certificate and Ext.A5 index card issued by the Medical College Hospital, Calicut.

The doctor who issued the certificate was also not examined. Therefore, the tribunal did not accept the certificate. He was an inpatient in the hospital for four days. The tribunal has assessed only Rs.2,000/- for pain and suffering. It has also come out in evidence that he has taken leave for about a month due to the accident. Even though there was no loss of earning power as his salary was not reduced due to the accident, we are of the opinion that he should be granted leave wages. In the above circumstances, we are of the opinion that Rs.3,000/- more should be awarded to the appellant towards leave wages, loss of amenities and consequences due to the injuries sustained in the accident. The above Rs.3,000/- should be deposited by the third respondent insurance company with 7.5% interest from the date of application till its deposit over and above the amount decreed by the tribunal. On deposit of the amount, appellant is allowed to withdraw the same.

J.B.Koshy
Judge

K. Hema
Judge

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.F.A. No.1092 of 2001

Judgment

Dated:7th December, 2007